

Department of Energy
Washington, DC 20585

September 30, 2008

Chairman Charles D. Nottingham
Office of Chairman
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20420-0001

RE: Docket Nos. 38302S and 38376S

Dear Chairman Nottingham:

The order entered in these dockets July 27, 2005 (served August 2, 2005, and effective September 1, 2005), approving the Government's settlement agreement with Union Pacific Railroad Company, further held these proceedings in abeyance while directing the Government to file quarterly reports on the progress of settlement negotiations. The Government continues to pursue settlement with individual carriers and is engaged in separate discussions with individual railroad defendants BNSF and Norfolk Southern. The Government and BNSF met via conference call on September 12, 2008, and DOE and Norfolk Southern have been actively exchanging information following the June 17, 2008, meeting referenced in our June 30, 2008, report. We are actively working with both BNSF and Norfolk Southern to continue discussions aimed at resolving these matters.

Accordingly, we are not yet in a position to report an agreement with either BNSF or Norfolk Southern. However, we remain hopeful that we will be able to reach agreements with both carriers. We will file a further report by the end of December 2008.

ENTERED
Office of Proceedings

SEP 30 2008

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Public Record

Sincerely,

Stephen C. Skubel
Assistant General Counsel
For Litigation
(202) 586-5579

cc. Vice Chairman Francis P. Mulvey
Board Member W. Douglas Buttrey
Attached Service List

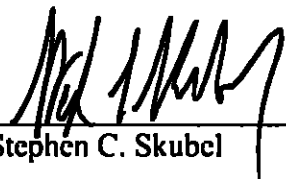


CERTIFICATE OF SERVICE

I, Stephen C Skubel, hereby certify that I served a copy of the foregoing document by prepaid first-class mail this 30th day of September, 2008, on the following:

Aberdeen & Rockfish R.R. Co. P.O. Box 917 Aberdeen, NC 28315	Buffalo & Pittsburgh Railroad c/o Genesee & Wyoming, Inc. 66 Field Point Road Greenwich, CT 06830
Montana Rail Link, Inc 101 International Way Missoula, MT 59808	James R. Paschall Greg E. Summy Norfolk Southern Railway Company Three Commercial Place Norfolk, VA 23510
Michael L. Rosenthal Covington & Burling 1201 Pennsylvania Avenue, NW Washington, D.C. 20004-2401	Jill Mulligan The Burlington Northern and Santa Fe Railway Company 2500 Lou Menk Drive, 3rd Floor Fort Worth, TX 76131
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Chris Guzzi Deborah Sedaris Providence & Worcester Railroad Co. 75 Hammon Street Worcester, MA 01610	Robert G. Culliford, Esq. Guilford Transportation System Iron Horse Park North Billerica, MA 01862
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Stephen C. Skubel